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October 20, 2004

Vernon A. Williams
Secretary
Surface Transportation Board
The Mercury Building
1925 K Street, NW #700
Washington, DC 20423

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Re: Section 5a Application No. 46 (Sub-No. 20)
Southern Motor Carriers Rate Conference, Inc.

Dear Secretary Williams:

In response to the Surface Transportation Board's Decision served in this proceeding on October 1, 2004, this is to indicate that counsel, John R. Bagileo, will speak on behalf of Southern Motor Carriers Rate Conference, Inc. (SMC) at the oral argument scheduled for Wednesday, October 27, 2004.

Also, enclosed for filing are the original and ten copies of SMC's summary of the points that will be addressed at the oral hearing.

Copies of this letter and the Summary of Argument have been served upon all parties of record.

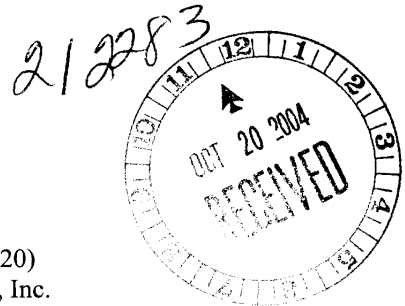
Respectfully submitted,

John R. Bagileo
Counsel for Southern Motor Carriers
Rate Conference, Inc.

Enclosures

ORIGINAL

Before The
Surface Transportation Board



Section 5a Application No. 46 (Sub-No. 20)
Southern Motor Carriers Rate Conference, Inc.

Summary of Argument

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Counsel for Southern Motor Carriers
Rate Conference, Inc.

Due and Dated: October 20, 2004

For over five decades the Interstate Commerce Commission, and its successor the Surface Transportation Board, consistent with the public interest, have approved the collective ratemaking agreements of motor carriers. In the less-than-truckload motor carrier industry the scope of the initial collective ratemaking authority approved corresponded with the regional operations then conducted by those carriers. But, from the beginning motor carriers conducting specialized operations, such as the household goods, machinery, steel and oilfield haulers, obtained nationwide or very broad collective ratemaking authority corresponding with the transportation operations provided by the member carriers. Over the years, through application or approved mergers or consolidations, motor carrier ratemaking associations broadened their collective ratemaking authority concomitant with the expanded operations of their member carriers or the inclusion in their membership of motor carriers operating in different ratemaking territories.

Prior to the Motor Carrier Act of 1980, motor carriers generally were granted operating authorities restricting the commodities and areas which could be served. Subsequent to 1980, motor carriers can obtain authority to transport general commodities throughout the United States. Southern Motor Carriers Rate Conference, Inc.'s (SMC) membership consists of motor carriers, large and small, the operations of which span the continental United States. Yet, at present, SMC can only serve the collective ratemaking needs of its motor carriers within the so-called Southern Territory.

Except for the stealth legislation enacted in 1999 which prohibited the Board from carrying out its intention of granting nationwide ratemaking authority to those motor carrier associations seeking such authority, neither Section 13703(a) of 49 U.S.C., nor

any of its predecessor statutory provisions, authorizing the agency to approve certain collective ratemaking activities restricted the territorial scope of such approval. That prohibition in former Section 13703(d) of 49 U.S.C. was rescinded in February, 2003, and the Board once more possesses its long-held authority to grant collective ratemaking authority coextensive with the ratemaking needs of an organization's member carriers.

SMC's application has received unprecedented support from many segments of the transportation industry. SMC has demonstrated its technical expertise to establish a nationwide baseline of class rates reflective of the costs and revenue needs of its carriers—a class rate structure acknowledged to be fair and reasonable by respected members of the transportation community. Just as the Board previously concluded, the present record establishes that SMC's application, if granted, would further the public interest. SMC thereby would be able to establish a nationwide baseline of class rates which can be relied upon by shippers, transportation intermediaries and carriers in negotiating fair and reasonable motor carrier rates.

The concerns expressed by several parties to the granting of this application are unwarranted. Rocky Mountain Motor Tariff Bureau, Inc. (RMB) and EC-MAC Motor Carriers Service Association, Inc. (EC-MAC) contend that if SMC can collectively establish rates on behalf of its member carriers in their ratemaking territories, they somehow will be harmed. First, there long has been considerable overlapping in the ratemaking territories granted under approved Section 5a Agreements. Yet, those motor carrier associations have coexisted for many years. For example, Pacific Inland Tariff Bureau, Inc. (PIN), which organization supports the granting of this application, and RMB both have ratemaking authority in the 11 Western States. Also, Middlewest Motor

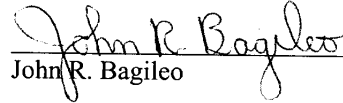
Freight Bureau, Inc. publishes collectively-made rates in Colorado, New Mexico, Texas and Wyoming. Similar overlapping exists among other motor carrier associations. That concurrent ratemaking authority has not been shown to work to the detriment of those organizations.

Second, and significantly, the current motor carrier ratemaking associations have different carrier member bases. RMB and EC-MAC state their members are small, regional carriers. SMC has shown that their members are large and small carriers providing nationwide transportation services. Whereas regional ratemaking activities may serve the interests of RMB and EC-MAC, such limitation does not meet the nationwide ratemaking needs of SMC's carriers located within and without the so-called Southern Territory. Moreover, although neither RMB nor EC-MAC have demonstrated what services they provide their members, there is no reason to assume that they will be affected by the grant of SMC's application.

The record evidences a substantial number of shippers, transportation intermediaries and motor carriers supporting SMC's application. Therefore, the concerns of the National Industrial Transportation League and the National Small Shipments Traffic Association are misplaced, particularly because they are not shared by their members supporting SMC's application and/or which participate in SMC as associate members. By statute, the Board has continuing and pervasive jurisdiction over any approved agreement, and any collective action taken by a ratemaking organization must be reasonable. SMC has demonstrated its good-faith compliance with all decisions of the Board regarding collective ratemaking activities, and the public interest will be served by authorizing SMC to establish class rates nationwide.

Certificate of Service

I hereby certify that I have this 20th day of October 2004, served a true and complete copy of the foregoing Summary of Argument upon all parties of record by first class mail, properly addressed and with postage prepaid.



John R. Bagileo